

TOWN OF NEEDHAM NON-DISCRIMINATION POLICY #201

1. PURPOSE AND SCOPE

The purpose of this document is to outline the Town's policy of non-discrimination in all areas of employment for present and prospective employees, and to ensure compliance with applicable federal laws, state statutes, and Town by-laws. The duty to provide equal employment opportunity and to pursue affirmative action arises from Title VI and VII of the U.S. Civil Rights Act of 1964, M.G.L. c. 151 (B), Executive Order #11246 (as amended), and Executive Order #227.

2. APPLICABILITY

This policy applies to all employees of the Town of Needham excluding those employees under the supervision and control of the School Committee.

3. DEFINITIONS

Affirmative Action -- the commitment to the recognition, development, and utilization of the abilities of members of protected groups. Affirmative action is a process used to achieve the purpose and spirit of anti-discrimination laws.

Equal Employment Opportunity -- a course of action that ensures that hiring and other employment decisions are made solely on an individual's merit and qualifications, without regard to race, color, national origin, sex, age, religious or political affiliation, physical disability, sexual preference, or veteran status.

Americans with Disabilities Act -- the federal law enacted in 1990 to ensure non-discrimination in employment against qualified individuals with disabilities.

Discrimination -- unequal treatment or categorization of individuals on a basis other than individual merit such as race, sex, age, color, religion, marital status, national origin, sexual orientation, or disability.

Individual with a Disability -- an individual who has a physical or mental impairment that substantially limits one or more of his or her major life activities or who has a record of such an impairment, or who is regarded as having such an impairment. An individual who currently uses drugs illegally is not considered to be an individual with a disability.

Major Life Activities -- activities that an average person can perform with little or no difficulty, such as walking, speaking, breathing, performing manual tasks, seeing, hearing, learning, caring for oneself, or working.

Minority -- the term minority means a person with permanent residence in the United States and who is:

Black	All persons having origins in any of the black racial groups of Africa.
Hispanic	A person of Mexican, Puerto Rican, Cuban, Dominican, Central or South American origin.
Native American/ Alaskan Native	All persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.
Asian	A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Sub-continent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippine Islands and Samoa.
Cape Verdean	A person having origins in the Cape Verde Islands.

Protected Class -- legally identified groups that are specifically protected by statute against employment discrimination.

Qualified Individual with a Disability -- an individual with a disability who meets the skill, experience, education, and other job-related requirements of a position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of the particular job.

Reasonable Accommodation -- a modification or adjustment to a job, employment practices, or work environment that makes it possible for an individual with a disability to enjoy an equal employment opportunity.

Sexual Harassment -- unwelcome conduct of a sexual nature that is a term or condition of employment.

Undue Hardship -- an action that is excessively costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the department.

4. POLICY

4.1 General

The Town of Needham recognizes the right of individuals to work and advance on the basis of merit, ability and potential without regard to race, sex, color, disability, religion, national origin, sexual

orientation, or age. Non-discrimination and equal opportunity will be the policy of the Town of Needham in all of its employment programs and activities.

Toward this end, the Town of Needham commits itself to take affirmative measures to ensure equal opportunity in the areas of hiring, promotion, demotion or transfer, recruitment, layoff or termination, rate of compensation, in-service or apprenticeship training programs, and all terms and conditions of employment. The Town of Needham is committed to fostering and encouraging a workplace comprised of individuals of diverse backgrounds, races, genders, abilities, religious beliefs, sexual orientation, and ages.

All Town employees are encouraged to take diligent, affirmative steps to ensure equal opportunity and respect for diversity, not only in the internal affairs of Town departments and agencies, but also in their relations with the public, including those persons and organizations doing business with the Town. The policy of the Town of Needham is to:

- (a) Recruit, hire and promote in all job classifications without regard to race, sex, color, disability, religion, national origin, sexual orientation or age.
- (b) Make decisions about employment so as to encourage the development of a diverse workforce.
- (c) Ensure that employment and promotion decisions are made in accordance with the principles of equal employment opportunity, by imposing only valid, job-related requirements for employment and promotional opportunities.
- (d) Ensure that all other personnel actions such as compensation, benefits, transfers, layoff, recall, training, tuition assistance, and social and recreational programs will be administered without regard to race, sex, color, disability, religion, national origin, sexual orientation or age.
- (e) Prohibit any kind of harassment based on race, sex, color, disability, religion, national origin, sexual orientation or age.

4.2 Sexual Harassment

The Town of Needham will not tolerate sexual harassment in the workplace. The duty to prevent such harassment arises from M.G.L. c. 151B and from Title VII of the U.S. Civil Rights Act of 1964, which includes sexual harassment as a form of unlawful discrimination. More information on sexual harassment is contained in Personnel Policy #202 dated December 2, 1998.

4.3 Americans with Disabilities

The Town of Needham will not discriminate against people with disabilities in any employment practices or in terms or conditions of employment, including, but not limited to application, testing, hiring, assignment, evaluation, disciplinary action, training, promotion, medical examination, layoff,

recall, termination, compensation, leaves or benefits. More information on the American's with Disabilities Act and Employment is contained in Personnel Policy #203, dated December 13, 1995.

5. PRE-EMPLOYMENT PROCEDURES

- 5.1 In accordance with the Town's Hiring Policy, all prospective candidates will have the opportunity to self-identify as disabled or as a member of a protected group.
- 5.2 Self-identification Forms may be used by the hiring department in order to promote equal employment opportunity. The hiring department will not keep a copy of the Self-identification Form.
- 5.3 Hiring managers shall be mindful of the goal of fostering diversity during the hiring process.
- 5.4 Hiring managers will make all candidates aware of the Handout for Applicants for Employment contained on Attachment B.

6. GRIEVANCE PROCEDURE

- 6.1 The purpose of this procedure is to encourage local resolution of grievances concerning employment. It is important to note that grievants are not required to exhaust the Town's procedures prior to filing a state or federal complaint or taking court action.
- 6.2 Anyone who feels that he or she has been discriminated against by the Town of Needham on the basis of race, sex, color, disability, religion, national origin, sexual orientation or age in employment practices may file a grievance.
- 6.3 The grievance should be in writing and should contain information about the alleged discrimination such as name, address, phone number of grievant and location, date and description of the problem. Reasonable accommodation, such as personal interviews or a tape recording of the complaint will be made available for persons with disabilities who are unable to submit a written complaint.
- 6.4 The grievant should first attempt to resolve the grievance at the level of the department manager. The department manager will notify the Assistant Town Administrator if such a grievance is submitted.
- 6.5 If the grievance is not resolved to the satisfaction of the grievant, or if the department manager lacks authority or jurisdiction to correct the problem, the grievance should be submitted by the grievant and or his/her designee as soon as possible to:

Assistant Town Administrator
Town Hall
Needham, MA 02492
781-455-7530

- 6.6 Within 15 calendar days after receipt of the grievance, the Assistant Town Administrator will meet with the grievant to discuss the grievance and possible resolutions. Within fifteen (15) calendar days after the meeting, the Assistant Town Administrator will respond to the grievant in writing, or, where appropriate, in a format accessible to the grievant such as audio tape. The response will explain the position of the Town of Needham and may offer options for substantive resolution of the grievance.
- 6.7 If the response by the Assistant Town Administrator does not satisfactorily resolve the issue, the grievant or his or her designee may appeal the decision of the Assistant Town Administrator to the Town Administrator by filing a written appeal within fifteen (15) days of receipt of the decision of the Assistant Town Administrator.
- 6.8 Within fifteen (15) days of receipt of the appeal, the Town Administrator will meet with the grievant to discuss the grievance and possible resolutions. Within fifteen days after the meeting with the Town Administrator, the Town Administrator will respond in writing, or, where appropriate, in a format accessible to the grievant, with a final resolution of the grievance.
- 6.9 All grievances received by the Assistant Town Administrator, appeals to the Town Administrator, and responses from same, will be kept by the Town of Needham for at least three (3) years. Such documents will remain strictly confidential.
- 6.10 This grievance procedure is meant to be informal, and cannot be legally binding on either party. Any grievance or complaint involving existing or threatened civil or criminal litigation may not be addressed using this informal procedure.

7. RETALIATORY ACTION

No retaliatory action will be taken against those persons who file complaints of sexual harassment or discrimination on the basis of race, sex, color, disability, religion, national origin, sexual orientation or age, or against individuals who cooperate in such investigations.

8. SANCTIONS

Violation of this policy will lead to appropriate disciplinary action up to and including termination from Town service.

Attachment A

Affirmative Action Officer

Carl F. Valente
Town Administrator
Town Hall
1471 Highland Avenue
Needham, MA 02492
781-455-7512

Affirmative Action Officer Designee

Kate Fitzpatrick
Assistant Town Administrator
Town Hall
1471 Highland Avenue
Needham, MA 02492
781-455-7530

Massachusetts Commission Against Discrimination

MCAD
One Ashburton Place
Room 601
Boston, MA 02108
617-727-3990

United States Equal Employment Opportunity Commission

EEOC Boston Office
One Congress Street 10th Floor
Boston, MA 02114
617-565-3200

Needham Human Rights Committee

Chairman
Human Rights Committee
Town Hall
Needham, MA 02492

Attachment B
HANDOUT FOR APPLICANTS FOR EMPLOYMENT

The Town of Needham has developed an employment grievance procedure. The purpose of the procedure is to encourage local resolution of grievances concerning employment. It is important to note that grievants are not required to exhaust the Town's procedures prior to filing a state or federal complaint or taking court action.

Anyone who feels that he or she has been discriminated against by the Town of Needham on the basis of race, sex, color, disability, religion, national origin, sexual orientation or age in employment practices may file a grievance.

The grievance should be in writing and should contain information about the alleged discrimination such as name, address, and phone number of grievant, as well as location, date and description of the problem. Reasonable accommodation, such as personal interviews or a tape recording of the grievance will be made available for persons with disabilities who are unable to submit a written grievance.

The grievance should be submitted by the grievant or his/her designee as soon as possible to:

Assistant Town Administrator
Town Hall
1471 Highland Avenue
Needham, MA 02492

Within 15 calendar days after receipt of the grievance, the Assistant Town Administrator will meet with the grievant to discuss the grievance and possible resolutions. Within fifteen (15) calendar days after the meeting, the Assistant Town Administrator will respond to the grievant in writing, or, where appropriate, in a format accessible to the grievant such as audio tape. The response will explain the position of the Town of Needham and may offer options for substantive resolution of the complaint.

If the response by the Assistant Town Administrator does not satisfactorily resolve the issue, the grievant or his or her designee may appeal the decision of the Assistant Town Administrator to the Town Administrator by filing a written appeal within fifteen (15) days of receipt of the decision of the Assistant Town Administrator.

Within fifteen (15) days of receipt of the appeal, the Town Administrator will meet with the grievant to discuss the grievance and possible resolutions. Within fifteen days after the meeting with the Town Administrator, the Town Administrator will respond in writing, or, where appropriate, in a format accessible to the grievant, with a final resolution of the grievance.

All grievances received by the Assistant Town Administrator, appeals to the Town Administrator, and responses from same, will be kept by the Town of Needham for at least three (3) years. Such documents will remain strictly confidential.

No person who makes a complaint under this Procedure will be subject to discriminatory or retaliatory treatment as a result of filing such complaint.